

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 5:19-cr-107
	)	
Plaintiff	)	
	)	JUDGE DAN AARON POLSTER
v.	)	
	)	
CHRISTOPHER SMALLWOOD,	)	<b>MOTION IN SUPPORT OF</b>
	)	<b>OUTPATIENT COMPETENCY</b>
Defendant.	)	<b>RESTORATION</b>

PROCEDURAL BACKGROUND

On March 7, 2019, a summons was issued for Christopher Smallwood to appear on an indictment in which the grand jury charged him, inter alia, with Interstate Communication of a Threat in violation of 18 U.S.C. 875(c). On March 15, 2019, Mr. Smallwood voluntarily appeared in Court for arraignment with family; the Government did not move for detention. Because of his long history of psychological problems, the Court ordered a Competency to Stand Trial evaluation. On June 11, 2019, the Court accepted medical evidence and found Mr. Smallwood incompetent. On August 5, 2019, the Court granted Defendant's Motion to have Dr. Farshid Afsarifar appointed as the Court's witness, who submitted a Report that found by a reasonable degree of psychological certainty that Christopher could be restored to competency on an outpatient basis, and joined other medical professionals in the opinion that custodial treatment would be detrimental to the patient.

ARGUMENT

In *U.S. v. Strong* 489 F.3d 1055, the Court, in evaluating the constitutionality of 18 U.S.C. 4241(d), considers the liberty interest of the accused and the duty of the Government to find the least restrictive method of competency restoration.

In the case at bar, the particular facts before the Court are that the medical professionals are unanimous in the opinion that custodial restoration would be seriously detrimental to Chris Smallwood. As such, his liberty interest would be unconstitutionally impaired and that the least restrictive method to restore him to competency is continued outpatient treatment as described by Dr. Afsarifard.

Respectfully submitted,

/s/ Kenneth R. Callahan

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Christopher Smallwood

**CERTIFICATE OF SERVICE**

I hereby certify that Defendant's forgoing *Motion in Support of Outpatient Competency Restoration* has been forwarded via the Court's electronic filing system this 20th day of April, 2019 to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's electronic filing system.

/s/ Kenneth R. Callahan

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